

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BILLY D. FOWLER,

Petitioner,

v.

MAGGIE MILLER-STOUT,

Respondent.

Case No. C07-5356 RJB/KLS

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DENYING PETITION FOR WRIT OF
HABEAS CORPUS


The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom (Dkt. 37), objections to the Report and Recommendation (Dkt. 38), and the remaining record, does hereby find and ORDER:

- (1) Petitioner objects to the Report and Recommendation, contending that the search of his vehicle was unlawful and that evidence obtained from that search should have been suppressed; the denial of his motion to sever counts rendered his trial fundamentally unfair; he did not receive before or during trial both copies of an affidavit in support of a petition for an order commanding an appearance before the special inquiry judge; and cumulative error warrants habeas relief. Dkt. 38.
- (2) The Report and Recommendation thoroughly analyzed and rejected petitioner's claims that evidence seized during the search of his vehicle should have been suppressed; that his right to a fair trial was violated because his motion to sever counts was denied; and that cumulative error denied him a fair trial. Further, petitioner has not shown that he was prejudiced by the alleged discovery violations regarding an apparently late-disclosed affidavit related to proceedings before a special inquiry judge. The State Court decisions rejecting petitioner's claims were not contrary to or an unreasonable application of clearly established federal law, as determined by the Supreme Court, nor did they result in a decision that was based on an unreasonable determination of the facts in light of the evidence presented to the state courts.
- (3) The Report and Recommendation is **ADOPTED**.

1 (4) Petitioner's petition for writ of habeas corpus is **DENIED**.

2 (5) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants
3 and to the Hon. Karen L. Strombom.

4 DATED this 30th day of June, 2008.

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6 ROBERT J. BRYAN
United States District Judge